

Ethics lights the way to  
good government

# The Ethical Times

A publication of the New York City Conflicts of Interest Board

Harold Lehmann, Editor



## Political Activities

By Sung Mo Kim

**Question:** *I am a City employee. There is a candidate for City-elective office who I think would do a good job for my community. I want to contribute and start volunteer work for her campaign. My volunteer work would involve passing out leaflets in my neighborhood, attending rallies, and making calls to voters. Am I permitted to engage in such political activities?*

**Answer:** Contributing to a campaign, passing out leaflets in your neighborhood, attending rallies, and making calls to voters are generally OK. Of course, there are some common-sense restrictions. For example, you must perform these activities on your own time, not on City time. And you can't use City resources, such as computers, phones, fax, copiers, letterhead, or personnel. In addition, to ensure that election politics are separate from City employment, you may not even ask your subordinates to participate in or contribute to a campaign.

**Question:** *I understand that I may not ask my subordinates to contribute to a campaign and that I may not coerce fellow employees to contribute to a campaign. But may I ask people with whom I have no dealings in my City job to contribute to a campaign?*

**Answer:** Fundraising on behalf of a candidate is generally OK, unless you are a high-ranking appointed official, in which case you are prohibited from requesting any person to make a contribution to a candidate for City elective office or to a City elected official running for any elective office (e.g., a City Council Member running for the State Assembly).

**Question:** *What if the campaign offered to pay me for some of my work. Would that be OK? Do I need obtain one of those moonlighting waivers?*

**Answer:** Working for a campaign, even for one that receives Campaign Finance Board funding, and getting paid for such work is generally OK, and you don't need to obtain a moonlighting waiver for such work. But you must comply with the restrictions outlined above about not using City time or resources in connection with this work, and you must follow any additional rules your own agency may have about outside employment. You must also make sure you do not communicate with any City agency, such as the Campaign Finance Board, on behalf of the campaign for which you work.

**Question:** *What if I want to run for elective office and keep my City job?*

**Answer:** The answer here can get a little complicated because, in addition to the City's conflicts of interest law, candidates for elective office may also be subject to Mayoral Directive 91-7 and the federal Hatch Act. Therefore, if you're planning to run for elective office, we suggest you call the Conflicts of Interest Board for further guidance.

**Question:** *There appears to be more restrictions on high-level public servants. Are there other restrictions that apply to high-level public servants that I should be aware of?*

**Answer:** Yes, in addition to not being able to fundraise for candidates for City elective office or for a City elected official running for any elective office, high-level public servants may not hold the position of district leader, be a member of a national or state committee of a political party, serve on the executive board of a county committee, or have any position higher than these positions.

If you have any questions about whether your political activities would create a conflict of interest, call the Conflicts of Interest Board at 212-442-1400 and ask for the attorney of the day. You can also email us through our website (<http://www.nyc.gov/ethics>) by clicking on "Contact COIB." All calls and emails are confidential, and you may contact us anonymously.

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New York City Conflicts of Interest Board.*

## Recent Enforcement Cases

- ▶ The Board fined a FDNY firefighter \$1,000 for attempting to use his position to avoid receiving a parking ticket for illegally parking near a fire hydrant.
- ▶ The Board issued a public warning letter to a DOE Assistant Principal for hiring her brother to work as a teacher in her department and approving his timesheets.
- ▶ The Board, the DOE, and the DOE Division of School Facilities concluded a settlement in which a Custodian Engineer received a DOE-imposed penalty valued at more than \$7,904 for, among other misconduct, removing two 55-gallon drums without permission from a DOE school for his personal use.
- ▶ The Board and DSNY concluded a three-way settlement with a Sanitation Worker who sold unauthorized DSNY merchandise for personal profit from his personal vehicle outside of a DSNY garage on City time.

## Recent Enforcement Cases

► The Board fined an Administrative Engineer for DEP \$6,000 for representing his private plumbing business in business dealings with DOB on more than 232 occasions and attending DOB inspections of his private plumbing work during his DEP work hours.

► The Board concluded a settlement in which it accepted an agency-imposed penalty of a 13-day suspension, valued at \$1,466, against a Case Manager for HRA for using her position to enable her husband, a real estate broker, to earn a rental fee from an HRA client.

► A former Caseworker for HRA who used HRA letterhead to misrepresent her income to HUD was sentenced in U.S. District Court to two years' probation, six months' home confinement and was ordered to pay restitution in the full amount that she had defrauded the government, \$41,035.

► The Board and the HRA have concluded a three-way settlement with an HRA Food Stamps Eligibility Specialist who agreed to an eleven work-day fine and a \$400 fine payable to the Board, for a total financial penalty of \$2,071 for using City time and City resources to do work for his private business.

► The Board fined a former Assistant Supervisor for the OPA Garnishment Unit \$2,000 for using her City position and City resources to lower the amount of money garnished from her brother's City salary.

► The Board issued a public warning letter to a Special Project Coordinator at Parks for serving without approval as the volunteer President of a non-profit with business before the City, and for misusing City time and resources on behalf of the non-profit.

► The Board fined an ALJ at the Parking Violations Bureau \$750 for providing free legal representation to his supervisor.

► The Board and DOHMH concluded a three-way settlement in which a DOHMH Principal Administrative Associate was suspended by DOHMH for five days, valued at \$817, for using City resources to do non-City work during times when she was required to be working for DOHMH.

► The Board fined the former Director of Special Projects at OCME \$3,250 for using City resources and his City position to perform work related to a private consulting venture.

► The Board and DOHMH concluded a three-way settlement with a Coordinating Manager in the DOHMH Bureau of Health Care Access and Improvement in which she was suspended for twenty-five days, valued at \$5,000, for using City time and City resources for an outside business and to complete an online defensive driving course.

► The Board fined the Director of Facilities Management for the Division of School Facilities at DOE \$1,150 for using subordinates to perform a personal favor for him using a City vehicle.

► The Board and HRA have concluded a three-way settlement in which an HRA Job Opportu-

nity Specialist was fined twenty-one-days' pay by HRA, valued at \$3,074, for accessing confidential information about her mother and attempting to expedite her mother's request for a reimbursement check from HRA.

► The Board fined a former Senior Inspector for the Enforcement Division at DCA \$4,000 for accepting money from a gas station owner whose station he was inspecting as part of his official DCA duties.

► The Board fined the former Director of SLA \$12,000 for making compensated appearances, in the form of numerous e-mails, on matters of interest to clients of his law firm.

► The Board fined the former Director of SEQRA Coordination and the Watershed Management Program for DEP \$2,000 for violating the "lifetime particular matter ban."

► The Board fined a former DHS Attorney \$2,000 for providing resume services to a DHS Security Officer during City hours, and for making a job inquiry on his behalf via e-mail.

► The Board fined a former ACS Child Protective Specialist \$6,626.04 for using her City-issued cellular telephone to make over 1,000 personal telephone calls, amounting to a \$6,126.04 telephone bill for which she failed to reimburse ACS.

► The Board fined a Senior Electrical Estimator for the DSNY \$1,000 for twice submitting bids for contracts with Parks and Recreation on behalf of his private electrical company.

► The Board fined a Deputy Chief of EMS for the FDNY \$500 for using a City-owned FDNY vehicle for unauthorized personal purposes.

► The Board and HRA concluded a three-way settlement in which an HRA Principal Administrative Associate was suspended by HRA for 60 days, valued at \$8,232, for approving her mother's food stamp application and authorizing a food stamp case be opened for her mother.

## Recent Advisory Opinions

**2009-1:** Elected Officials for whom the NYPD has determined that security in the form of an official vehicle and security personnel is required may make any lawful use of the official vehicle and security personnel for personal purposes, including pursuit of outside business or political activities, without any reimbursement to the City, provided that such use is not otherwise a conflict of interest and further provided that the Elected Official is in the vehicle during all such use. Elected Officials for whom security protection has not been mandated by the NYPD, but whose duties require them to be constantly available to respond to the needs of constituents and to public emergencies, may make any lawful use of their allotted City vehicles and/or drivers within the five boroughs, including pursuit of outside business or political activities, without reimbursement to the City, provided that the use is not otherwise a conflict of interest and further provided that the Elected Official is in the vehicle during all such use.

**2009-2:** The Board considered the sponsorship of discretionary funding awards by Members of

the City Council to community based organizations and discussed a number of situations where, in light of the sponsoring Member's affiliation with the proposed recipient, such awards would and would not be permissible. Where the Council Member serves the organization as a paid employee, sponsoring an award for the organization would be impermissible. Where the Council Member serves, in his or her private capacity, as a member of the organization's board of directors, sponsoring an award for the organization would likewise be impermissible; however, where the Member serves on the organization's governing board as part of his or her Council responsibilities, sponsoring an award for the organization would not violate the conflicts of interest law. Where a member of the Council Member's family serves the organization as a paid employee, sponsoring funding for the organization will be permissible only where the proposed funding does not appear reasonably likely to provide a material benefit to the family member. Where, in contrast, the Member's family member serves the organization as an unpaid member of its board of directors, the Member will not violate the conflicts law by sponsoring funding for the organization. □

*Interested in more information?*

*Get in touch with COIB's Training & Education Unit to arrange a class in Chapter 68 for you and your staff. Contact Alex Kipp, Director of Training, at [kipp@coib.nyc.gov](mailto:kipp@coib.nyc.gov)*

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**<http://www.citylaw.org/cityadmin.php>**

